

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Kausik

Application No.: 09/998,173

Filed: 12/03/2001

Group No.: 2185

Examiner: Unassigned

For: Method and System for Efficient and Automated Version
Management of Embedded Objects in Web Documents

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JAN 15 2004

Commissioner for Patents - Mail Stop Petition

PO Box 1450

Alexandria, Virginia 22313-1450

Technology Center 2100

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT
(37 C.F.R. § 1.102 AND M.P.E.P. §708.02)

Applicants hereby petition to make this application special because of actual infringement.

1. Accompanying material

Accompanying this petition is:

(a) Statement in Support of Petition to Make Special Because of Actual Infringement;
and

(b) Declaration of Facts in Support of Petition to Make Special Because of Actual Infringement.

2. Fee (37 C.F.R. §1.17(h)) - \$130.00

☐ Attached is a ☐ check in the amount of \$130.00

☒ Authorization to hereby made to charge the amount of \$130.00.

☒ To Deposit Account 08-1641

☐ To Credit card as shown on the attached credit card information authorization
Form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

☒ Charge any additional fees required by this paper or credit any overpayment to
Deposit Account 08-1641, referencing attorney's docket no. 06672-1012.

Date:

January 9, 2004

Paul Davis (Reg. No. 29,294)

HELLER EHRMAN WHITE & McAULIFFE LLP

275 Middlefield Road

Menlo Park, CA 94025

Telephone: (650) 324-7041

Customer No. 25213

SV 433784 v1

Attorney's Docket No. 06672-1012

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**STATEMENT IN SUPPORT OF PETITION TO MAKE SPECIAL
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

NOTE: "Subject to a requirement for a further showing as maybe necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging: (A) That there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record. Models or specimens of the infringement product or that of the application should not be submitted unless requested." M.P.E.P. § 708.02, 8th Ed.

I, Paul Davis, Reg. No. 29,294, of Heller Ehrman White & McAuliffe, 275 Middlefield Road, Menlo Park, CA 94025, (650) 324-7041, and the practitioner in this case and make the following statements:

1. I have made a rigid comparison of the alleged infringing method and apparatus referred to in the accompanying Declaration of Facts with the claims of this application.

2. In my opinion, claims 1-5, 9-12, 15-25, and 27-29 on file in this application are unquestionably infringed.

3. I, ☐ have made a search of ☒ have caused to be made a search of ☐ have a good knowledge of

the pertinent prior art. All such material art is provided to the Examiner as

☒ having been filed ☐ being supplemented ☐ being filed
in a respective Information Disclosure Statement.

4. That I believe all the claims in this application

☒ as on file ☐ as on file resulting from the attached amendment
are allowable.

Date: January 9, 2004


Paul Davis (Reg. No. 29,294)

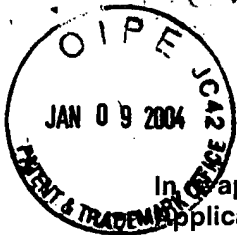
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Inventor: Kausik
Application No.: 09/998,173
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Examiner: Unassigned

For: Method and System for Efficient and Automated Version Management of Embedded Objects in Web Documents

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PO Box 1450, Alexandria, Virginia 22313-1450

**DECLARATION OF FACTS IN SUPPORT OF PETITION TO MAKE SPECIAL
BECAUSE OF ACTUAL INFRINGEMENT (M.P.E.P. § 708.02)**

I, Balas Natarajan Kausik, President and CEO of FindGround Networks, having a principal place of business at 42 West Campbell Avenue, Suite 201, Campbell, CA. FineGround Networks is the sole assignee of U.S. Serial Number 09/998,173 (hereafter the " '173 Application").

I, Balas Natarajan Kausik, am one of the inventors of the '173 Application, and hereby state the following:

1. I have reviewed and understand the nature and scope of the claims in the '173 Application.

2. There is actual infringement of this invention by Pivia ("Pivia"), having a principle place of business at 10670 North Tantau Avenue, Suite 200, Cupertino, CA 95014. There is an infringing device or product on the market or a method in use developed by Pivia.

3. Pivia's web site details one or more device or product on the market or a method in use that infringe the claims of the '173 Application. The Pivia website discloses the following:

Express Loader™

A large majority of upstream requests simply check the validity and freshness of embedded objects and heavy images, introducing unnecessary latency that contributes to application performance problems. Pivia's Express Loader technology eliminates the vast majority of upstream content freshness requests, so page load times and network traffic are dramatically reduced.

When the content changes, Pivia directs the browser to the newer version and content correctness is maintained. If the content has not changed, Pivia instructs the browser to load the old version from its local cache immediately.

As a result, pages load faster and HTTP connection handling overhead decreases by up to 90%. Traffic is dramatically reduced between the user and web server improving download speeds by 10x or more, even for dial-up users!

See <http://www.pivia.com/prod/ps03.html>

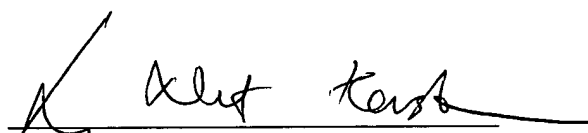
In addition the website discloses that each embedded object that is sourced into a web page should be transformed to include a hash or other unique identifier of the contents of the object. the object is then to be given an arbitrarily long expiration date so that the browser never checks the validity of the object. Pivia sets the expiry date to be 6 months, as evidenced by the browser cache which displays the expiry date.

4. The website shows that Pivia has introduced products into the commercial marketplace for specific applications covered by claims of the '173 Application. Pivia announced such products in its web site. For example, see Pivia's website at www.pivia.com.

5. I have reviewed the Pivia website and have made a rigid comparison of Pivia's products or method with the claims of the '173 Application, and that in ,my opinion, some, if not all of the claims of the '173 Application are unquestionably infringed.

6. I have made a careful and thorough search of the prior art and I have good knowledge of the pertinent prior art. The references have been made of record with the filing of IDSs in the Application.

Date: 8/Jan/2004


Balas Natarajan Kausik